

**INQUIRY INTO MODERN SLAVERY ACT 2018 AND  
ASSOCIATED MATTERS**

**Organisation:** Zoic Environmental Pty Ltd

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Legislative Council Standing Committee on Social issues,

By email: [socialissues@parliament.nsw.gov.au](mailto:socialissues@parliament.nsw.gov.au)

Dear Standing Committee on Social Issues,

**Re: Submission in response to Inquiry into Modern Slavery Act 2018 and associated matters**

Zoic is a consultancy that provides formal advice on ethical supply chain assessment, non-financial reporting, and modern slavery due diligence to a number of businesses' supply chain.

We are pleased to make this submission to the Standing Committee on Social Issues.

We also offer our assistance and time to speak directly on these points at an appropriate time.

Should you have any questions or comments about this submission, please contact the undersigned.

Yours sincerely,

**Carsten Primdal**

**Principal Sustainability Consultant  
Zoic Environmental Pty Ltd**

**Kylie Lloyd**

**Managing Director  
Zoic Environmental Pty Ltd**



## Background

Modern Slavery is an umbrella term used to refer to a range of exploitative practices including slavery and slavery-like practices/conditions and human trafficking. It is estimated that up to 40 million people are victims of modern slavery in 2019.

Whilst it is inherently difficult to obtain consistent data regarding modern slavery, it is estimated that 0.6 persons per 1,000 of Australia's population was subject to modern slavery.

The Modern Slavery Act 2018 (NSW) seeks to combat modern slavery. The Act's reporting requirement captures commercial organisations with employees in NSW and with an annual turnover between \$50 million and \$100 million.

The NSW Modern Slavery Act was referred to the Standing Committee on Social Issues on 6<sup>th</sup> August 2019 for an inquiry and report.

### A. Our submission

Our submission addresses the inquiry of the Legislative Council Standing Committee on Social Issues on The Modern Slavery Act, the Modern Slavery Amendment Bill and the draft Regulation.

This submission contains responses to the Terms of Reference A, B, C, D, G & H.

### B. Specific Points

The Standing Committee on Social Issues inquiry into and report on the *Modern Slavery Act 2018* (NSW) (the NSW Act), the consultation draft of the *Modern Slavery Bill 2019* (the amendments Bill), and the consultation draft of the *Modern Slavery Regulation 2019* (NSW) (the Regulation), with particular reference to the following terms of reference (TOR):

#### **TOR a) The operability of the proposed anti-slavery scheme**

From a practical (non-legal) perspective the proposed amendments appear to improve the operability of the anti-slavery scheme.

Through removing legal inconsistencies and clarifying the text, the NSW Government and the Anti-slavery team can better focus their efforts on managing modern slavery issues and providing oversight on the application of the legislation.

#### **TOR b) the effect of the anti-slavery scheme on business, including the supply chain reporting obligations under section 24 of the NSW Act**

The Regulatory Impact Statement prepared by the Commonwealth Department of Home Affairs, estimated an annual regulatory impact on the business community of the modern slavery reporting requirement of \$21,950 per reporting entity. According to the DPC June 2019 submission (pg. 6), as the expectations of businesses reporting under the NSW Modern Slavery Act are equivalent to the reporting requirements of the Commonwealth Act, the NSW Government expects that the regulatory impact would be very similar for each reporting entity.

Whilst the reporting cost estimate may be understated, a recent survey completed by BCSDA in joint efforts with CA ANZ and Zoic Environmental, indicated that 48% of the participants considers *insufficient resource allocation to be one of the key barriers in the preparation for the Modern Slavery Statement.*

This could also explain why 46% of the participants in the survey identified that their preference for the delivery of the NSW Modern Slavery Act was to the roll out of the \$100 million (Cth) threshold



initially and redirection of efforts to education for businesses with a \$50 - \$100 million revenue over the 3-year review of the Commonwealth legislation.

The NSW MSA is only the second jurisdiction in the world to introduce the office of an Anti-Slavery Commissioner and the first one to legislate on mandatory contents for the modern slavery reporting regime. It is no surprise that the NSW MSA is regarded as being visionary with the inclusion of an Anti-Slavery Commissioner and that the *inclusion of the Anti-Slavery Commissioner role plays a critical part in properly policing its application*.

The same survey, indicated that 52% of the participants considered one of the key barriers to the preparation for the modern slavery statement will be the *access to accurate and relevant information allowing a proper response to all 7 mandatory reporting criteria*.

This could also explain why 42% of the members and participants indicated that they prefer to Maintain the \$50 -100\$ threshold indicated by the NSW MSA, and introduce an initial educative role for the anti-slavery commissioner, rather than introduce punitive sanctions *until* after the 3 year review of the Commonwealth legislation.

### **TOR c) the intended application of the anti-slavery scheme with respect to charities and not-for-profit organisations, State Owned Corporations and local councils**

The intended application of the anti-slavery scheme with respect to:

- Charities:
  - Provided that for-profit commercial activities still fall under the provisions of the legislation, this exemption is reasonable
- Not-for-profit organisations
  - No comments regarding NFPs.
- State Owned Corporations
  - Ensuring that State Owned Corporations are not unfairly advantaged by exemptions is a must, if they provide services in competition with commercial enterprises. Hence SOCs must fall under the provisions of the legislation.
- Local councils
  - Whilst the intent to allow Local Councils the means to voluntarily take steps to mitigate modern slavery; “voluntary compliance” rarely leads to real compliance. Eliminating undue financial strain on small councils, is reasonable, however, the cost of compliance for larger councils is not prohibitive, and as such it is our position that they should be included for mandatory reporting, provided that the turnover threshold (\$50 million) is reached.

### **TOR d) the appropriateness and enforceability of Modern Slavery Risk Orders under section 29 of the NSW Act**

Repealing section 29, MSROs, appear to be a logical and reasonable step. This is provided that the risk of past offenders reoffending can be mitigated by applying alternative and existing risk management regimes.

### **TOR g) whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary, or requiring of amendment to address inconsistencies or gaps**

Whilst the Commonwealth Modern Slavery Act is an important step forward, the NSW Modern Slavery Act is more stringent.



For a business, wishing to engage freely and fairly in commercial contract with potential clients, the NSW legislation offers a stronger deterrent and hence will act as a driver to shape Australian businesses to engage on a level playing field.

Ideally, in three years once the Commonwealth legislation is reviewed, the Commonwealth legislation will be amended to be aligned with NSW legislation through commensurate penalties, incorporating an anti-slavery commissioner, and generally absorbing the positives from the NSW Legislation. At this point it would be reasonable to consider that the NSW Modern Slavery legislation then be unnecessary. Until such time, the NSW legislation can and will effect change on the Commonwealth. Deeming it unnecessary at this stage, will negate the above positives before they materialise.

One gap identified is that there is no pathway to voluntary reporting for entities below the \$50million threshold. This should be addressed/amended.

### **TOR h) the preferred course of action to address the matters identified in the Terms of Reference**

It is Zoic's opinion that steps must be taken to:

1. Include Local Councils in the scope for reporting entities.
2. Develop a pathway for voluntary reporting.

Addressing these 2 issues will strengthen the legislation and ensure consistency for business.

### **C. Zoic Environmental**

Zoic is a sustainability and environmental consultancy based in Sydney providing advisory services to clients in Australasia. We provide tailored quality services suited to the objectives of our clients, on budget on target.

Our consultants have been involved in the provision of sustainability advice to clients around Asia Pacific with proven capability in providing sustainable management advisory services. We are experienced in assisting large and complex organisations in implementing environmental, social and governance strategies, and have deep subject-matter expertise across all major areas of sustainability, including climate change, waste management and energy use, and have experience of practically applying our knowledge in a business context to identify risks and opportunities.

The adoption and integration of sustainable development goals within organisations implementation sustainability management frameworks, thus forms part of our advisory services.

Our consultants have worked with a variety of large multinational organisations, across a number of sectors, including government (local, state and federal), financial services, fast moving consumer goods, textiles, construction, automotive and education sectors. We are members of the Business Council for Sustainable Development Australia (BCSD).

Should you have any questions or comments regarding any of the above, please contact Carsten Primdal, or Kylie Lloyd on [redacted] or via email: